



## DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES

Policy No.: DOC 4.5.31	Subject: <b>INFORMED CONSENT</b>
Chapter 4: FACILITY/PROGRAM SERVICES	Page 1 of 2, plus attachment
Section 5: Health Care	Revision Date:
Signature: /s/ by Director Rick Day 3/20/98	Effective Date: July 1, 1998

### I. POLICY:

It is the policy of the Montana Department of Corrections to provide a mechanism whereby all examinations, treatment and procedures are governed by applicable informed consent practices. This policy requires that all applicable informed consent practices are observed for all examinations, treatments and procedures performed on offenders in State correctional facilities and programs.

### II. AUTHORITY:

53-1-203, MCA. Powers and Duties of the Department of Corrections

Standards for Prisons and Juvenile Facilities by the National Commission on Correctional Health Care

### III. DEFINITIONS:

**Informed Consent** is the written agreement by a patient to a treatment, examination, or procedure after the offender receives the material facts about the nature, consequences and risks of the proposed treatment, examination, or procedure and the alternatives available.

### IV. PROCEDURES:

#### A. **Information to the Offender**

The offender must be informed regarding the following areas:

1. A clear, concise explanation of his/her condition and all proposed technical procedures.
2. An explanation of possible risk of mortality or serious side effects.
3. An explanation of problems relating to recuperation and probability of success.

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**B. Informed Clinical Consent Forms**

Offenders will sign an Informed Clinical Consent form for all medical care (attached).

**C. Emergencies**

In the event of an emergency when informed consent cannot be immediately obtained and the offender's life is in danger, informed consent will be implied.

1. Physicians must exercise their best medical judgment in all such cases.
2. It is advisable that the physician document in the medical record all aspects of the offender's condition and the reasons for emergency intervention.

**D. Court Orders**

In certain exceptional cases, a court order for treatment may be sought just as it might be in the general community.

**E. Refusal by the Offender to Provide Informed Consent**

Offenders may refuse aspects of their treatment which do not cause harm to themselves or endanger others (i.e., history and physical examinations). See DOC 4.5.32, Right to Refuse Medical Treatment.

**V. CLOSING:**

Questions concerning this policy shall be directed to the Department Health Services Manager.

**MONTANA DEPARTMENT OF CORRECTIONS**  
**(FACILITY)**

**INFORMED CLINICAL CONSENT**

I, \_\_\_\_\_, understand that the following clinical procedure: \_\_\_\_\_  
is recommended by \_\_\_\_\_  
(MDOC Health Care Provider Name)

The expected benefit(s) from this clinical procedure is/are \_\_\_\_\_  
\_\_\_\_\_

I have been advised by the above-named health care provider of any significant risks in relation to this  
clinical procedure. The following reasonably foreseeable risks were discussed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, \_\_\_\_\_ give my informed consent to have the above clinical procedure performed.  
(do or do not)

Offender comments: \_\_\_\_\_  
\_\_\_\_\_

I understand that if the procedure is NOT performed the possible risks are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OFFENDER SIGNATURE

\_\_\_\_\_  
DATE

WITNESS SIGNATURE

\_\_\_\_\_  
DATE

OFFENDER REFUSED TO SIGN \_\_\_\_\_

Witness Signature

\_\_\_\_\_  
Date

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